Deduction of Sale-Tax from the Bills of Contractors in CPWD

2545. SHRI BRAHMAKUMAR BHATT: Will the Minister of URBAN DEVELOPMENT AND POVERTY ALLEVIATION be pleased to state:

(a) the percentage taken/added as Contractor profit and overhead while making justification for tender/work order/supply order in CPWD;

(b) whether it is a fact that Government have ordered to deduct Sale-Tax @ 2 per cent or 4 per cent from the bills of Contractors in CPWD;

(c) if so, the details thereof; and

(d) while awarding work, whether Sales Tax @ 2 per cent or 4 per cent is considered in the justification for tenders?

THE MINISTER OF STATE IN THE MINISTRY OF URBAN DEVELOPMENT AND POVERTY ALLEVIATION (SHRI BANDARU DATTATRAYA): (a) While preparing justification for tender/work order/supply order 10% for contractor's profit and over head charges is added in the rates.

(b) and (c) Yes, Sir. O.M. No. DGW/MAN/60 dated 26.2.2001 issued by DG(W) in this regard is attached as Statement. (See *below)*

(d) While preparing justification, for award of work, sales-tax/ excise tax is added in material cost.

Statement

CENTRAL PUBLIC WORKS DEPARTMENT
OFFICE MEMORANDUM
NO. DGW/MAN/60

ISSUED BY AUTHORITY OF DIRECTOR GENERAL OF WORKS

NIRMAN BHAWAN, NEW DELHI
26th FEBRUARY, 2001

SUB: Delhi Sales Tax on Works Contracts* Act, 1999.

1. Delhi Sales Tax on Works Contracts' Act, 1999 came into force with effect from 1.12.99. In this connection this office circular No. CSQ/SE/C&M/DeIsT/435 dated 14th December, 1999 may be referred to wherein it was enjoined upon all concerned that the provisions of the said Act may be strictly followed for contracts entered into prior to 1.12.99 and the contractors may be reimbursed in accordance with Clause 38 of the general conditions of contract for CPWD works, 1998.

2. Complaints have been received in this Directorate from certain contractors and associations that the provisions of the above Act are not being followed by some EEs and they are not being reimbursed, the amount deducted from their bills towards works contract tax, on contracts entered, prior to 1.12.1999 and also the amount paid by them to the Sales Tax authorities. In this connection, a copy of the circular No. CST/ DCVWCCy2000-2001/4602-4613 dated 29.11.2000 issued by the Commissioner of Sales Tax, New Delhi is enclosed for guidance. The following further clarifications are issued:—

2.1 Department's liability to reimburse to the contractor the amount of sales tax deducted/paid under the Act is applicable, under clause 38 of the Standard Contract Document, only in respect of contracts entered into prior to 1.12.1999. Even in such cases, the liability is

only to the extent of the tax applicable on the portion of work executed after 1.12.1999.

2.2 The department has no liability to reimburse tax deducted/ paid in the case of contracts entered into after 1.12.1999.

2.3 In both cases i.e. contracts entered into before 1.12.1999 and after 1.12.99, the contractor has the option for total tax deduction at source at the rate of 4% as composition amount or to opt for 2% deduction at source and subsequent assessment. The contractor has to file an affidavit with the contract awarding agency giving his option.

2.4 Only on contracts entered into before 1.12.1999 if a contractor chooses the first option, the composition amount of 4% deducted will be reimbursable as stated in (2.1) above. If he chooses the second option, he will be entitled for refund, as stated in (2.1) above, of 2% deducted at source and also any further tax which he may be required to pay or paid as balance of the tax due after assessment. Such reimbursement will be made on production of proof of payment. In case total tax payable after assessment is found to be less than 2% deducted at source, the excess amount shall be returned by or recovered from the dues of the contractor for which necessary undertaking shall be obtained at the time of reimbursement of 2%.

2.5 Other instructions contained in the Act and circular dated 29~.l 1.2000 shall be followed strictly by the Executive Engineers.

3. All Executive Engineers are requested to comply and follow these instructions so as to avoid complaints from contractors & their Associations.

Sd/-
(S. K. MITTAL)
Superintending Engineer (C&M)